

ESTTA Tracking number: **ESTTA655880**Filing date: **02/13/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Union Wine Company		
Entity	Corporation	Citizenship	Oregon
Address	P.O. Box 370 Sherwood, OR 97140 UNITED STATES		

Attorney information	Paul W. Reidl Law Office of Paul W. Reidl Second Floor 241 Eagle Trace Drive Half Moon Bay, CA 94019 UNITED STATES paul@reidllaw.com Phone:(650) 560-8530
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Registration Subject to Cancellation


Registration No	4618420	Registration date	10/07/2014
Registrant	FN CELLARS, LLC P.O. BOX 327 OAKVILLE, CA 94562 UNITED STATES		

Goods/Services Subject to CancellationClass 033. First Use: 2014/08/04 First Use In Commerce: 2014/08/04
All goods and services in the class are cancelled, namely: WINE**Grounds for Cancellation**

False suggestion of a connection	Trademark Act section 2(a)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Void due to lack of bona fide use at the time the application was filed; void because the mark was not in use on the goods in commerce at the time the statement of use was filed.

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	4486053	Application Date	10/08/2012
Registration Date	02/18/2014	Foreign Priority Date	NONE

Word Mark	UNION WINE CO.
Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 2012/11/28 First Use In Commerce: 2013/10/09 Wines

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Union Wine Company		
Goods/Services	Trade name for wine.		

Attachments	85747805#TMSN.png(bytes) Bella Union PC FInal.pdf(264342 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/pwr/
Name	Paul W. Reidl
Date	02/13/2015

UNITED STATE PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Registration No. 4,618,420

Trademark: BELLA UNION

Goods: Wine in Class 33

UNION WINE COMPANY,

Petitioner,

v.

FN CELLARS, LLC,

Respondent.

) Cancellation No.

) **PETITION FOR CANCELLATION**

Petitioner, Union Wine Company (“Union”), by and through its counsel, hereby petitions to cancel registration no. 4,618,420. As grounds for its petition, Union alleges as follows:

1. Union is a winery in Oregon. It owns registration no. 4,486,053 for UNION WINE CO. for wines in Class 33. The application that gave rise to the registration was filed on October 8, 2012. The registration and its TESS printout are attached as Exhibit 1 to this petition.

2. Respondent FN Cellars LLC is a winery located in Oakville, California. It owns registration no. 4,618,420 for BELLA UNION for wine in Class 33. The application that gave rise to this registration was filed on an “intent to use” basis on July 5, 2013. Respondent’s trademark has not been registered for five years.

3. Petitioner filed the application that gave rise to its registration before Respondent’s application was filed. Petitioner has filing priority over Respondent.

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1 4. Petitioner has used its mark continuously on wine since the date of first use in
2 commerce, October 9, 2013. The statement of use for Respondent's application claims a first use
3 date of August 4, 2014. Petitioner has use priority over Respondent.

4 5. Petitioner's UNION WINE CO. mark for wine is inherently distinctive.

5 6. Petitioner has valuable trade name rights in its business name, Union Wine Company.
6 This has been used by Petitioner continuously since its formation in 2005.

7 7. By virtue of their extensive and continuous use on wines, Petitioner's trademark and
8 trade name have become known to the wine-consuming public and the trade.

9 8. Respondent's registered mark, BELLA UNION, is highly similar to Petitioner's
10 UNION WINE CO. mark and the trade name Union Wine Company. The dominant portion of both
11 marks is the term "Union." The goods, wines, are identical. Goods bearing these marks and trade
12 name would be sold to the same distributors, retailers and consumers in the same channels of trade.
13 There is therefore a likelihood of confusion between the Respondent's mark and Petitioner's mark
14 and trade name, and the registration should be cancelled on that basis.

15 9. The registration and use of the applied-for mark by Respondent would constitute use
16 in commerce of a word, name or device and false designation of origin which is likely to cause
17 confusion, or to cause mistake, or to deceive as to affiliation, connection or association of
18 Respondent with Petitioner as to the origin, sponsorship or approval of the goods offered in
19 connection therewith.

20 10. On information and belief, the original applicant of Respondent's mark did not have a
21 bona fide intention to use the mark on the goods at the time it filed its application. The registration is
22 therefore void ab initio.

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11. On information and belief, the registered mark was not in use in commerce on the goods as of the date of the filing of the Statement of Use, August 11, 2014. The registration is therefore void ab initio.

12. The registration of Respondent's mark for the goods recited in the application would be inconsistent with Petitioner's rights in its UNION WINE CO. mark and its trade name and will cause injury and damage to Petitioner.

WHEREFORE, it is respectfully prayed that this petition be granted and that registration no. 4,618,420 be cancelled

The filing fee of \$300.00 is being paid at the time of filing.

Respectfully submitted.

Dated: February 13, 2015

LAW OFFICE OF PAUL W. REIDL

James Beird

Paul W. Reidl (CA. Bar. No. 155221)
241 Eagle Trace Drive
Half Moon Bay, CA 94019
(650) 560-8530
paul@reidllaw.com

*Attorney for Petitioner,
Union Wine Company*

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PETITION FOR CANCELLATION on Respondent in this action by placing a true copy thereof enclosed in an envelope, postage prepaid, addressed as follows:

with a courtesy copy to:

Executed on February 13, 2015 at Half Moon Bay, California.

James Beid

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EXHIBIT 1

United States of America

United States Patent and Trademark Office

UNION WINE CO.

Reg. No. 4,486,053

Registered Feb. 18, 2014

Int. Cl.: 33

TRADEMARK

PRINCIPAL REGISTER

UNION WINE COMPANY (OREGON CORPORATION), DBA UNION WINE CO.,
P.O. BOX 370
SHERWOOD, OR 97140

FOR: WINES, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 11-28-2012; IN COMMERCE 10-9-2013.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,233,182.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "WINE CO.", APART FROM THE MARK AS SHOWN.

SN 85-747,805, FILED 10-8-2012.

JOHN GARTNER, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.



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Word Mark	UNION WINE CO.
Goods and Services	IC 033. US 047 049. G & S: Wines. FIRST USE: 20121128. FIRST USE IN COMMERCE: 20131009
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85747805
Filing Date	October 8, 2012
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	April 2, 2013
Registration Number	4486053
Registration Date	February 18, 2014
Owner	(REGISTRANT) Union Wine Company DBA Union Wine Co. CORPORATION OREGON P.O. Box 370 Sherwood OREGON 97140
Attorney of Record	Michael Heilbronner
Prior Registrations	3233182
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "WINE CO." APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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